

# Trygstad, Schwab & Trygstad

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File No. A0119.002

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**VIA FACSIMILE AND U.S. MAIL**

(213) 241-8442

Ramon Cortines, Superintendent  
Los Angeles Unified School District  
333 So. Beaudry Avenue, 24<sup>th</sup> Floor  
Los Angeles, CA 90017

Re: Employment Conditions

Dear Superintendent Cortines:

Your letter dated January 26, 2009, forwarded to the certificated employees of the Los Angeles Unified School District, at times distorts the law and therefore leads to confusion. The purpose of this correspondence is to more accurately clarify what UTLA is asking of its members. Specifically, UTLA has not asked any of its members to violate any legally mandated assessments. Indeed, as you correctly stated in your said letter, "UTLA is asking teachers to administer only legally required assessments." Where, however, the confusion in your said letter to the employees is that in support of your assertion that periodic testing is "legally mandated," you only quote a very small portion of Education Code section 60602. By being selective as to the language you quote, it changes the context and meaning of what the law intended.

As you are aware, section 60602 does not provide any specifics as it relates to (1) when assessments should be given, (2) the number of assessments required, and (3) what is the content of the assessment. Moreover, the purpose of periodic assessments is primarily designed to "provide information on the academic progress status and progress of individual pupils to those pupils, their parents and their teachers." Thus while assessments are mandated, what is not legally mandated is the timing of the assessments, the number of assessments and the content of any assessment. As long as information is provided to the individual pupils regarding their academic progress, their parents are kept informed and the teachers are aware of their pupils' academic needs and progress, there is no legal requirement about when or the number of periodic assessments.

The School Improvement Act of 1970 provides for a system whereby a District can get extra funds for participation in the various programs established in the Education Code under the Education Improvement Acts of 1969 and of 1970. The State Board of Education is required to adopt rules and regulations to implement those provisions. As previously highlighted, Education Code §60602 provides that first and foremost, the purpose of the testing is to provide information on

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the academic status and progress of individual pupils to those pupils, their parents and their teachers. Section 60602 does not require that teachers follow mandates imposed by their administrators regarding the submission and use of the test data. Because section 60602 also does not mandate when or how frequently the assessments must be made, your mandate regarding periodic assessments is therefore legally unfounded and not required by section 60602. Accordingly, President Duffy's advice to UTLA members is correct when section 60602 is read in its entirety.

Finally, your attempt to mandate additional duties for members of the Bargaining Unit will impose a change in working conditions. Clearly UTLA has as its priority the "best interest of students." It is for this reason that UTLA has so vigorously contested the cuts at the school sites. This is where the real harm occurs. Accordingly, UTLA is entitled to and does hereby demand that these new working conditions you seek to impose be first negotiated with UTLA. Until agreement is reached, President Duffy's advice to UTLA members and members of the Bargaining Unit stands.

Very truly yours,

TRYGSTAD, SCHWAB & TRYGSTAD

Lawrence B. Trygstad and Richard J. Schwab

LBT:RJS:ecp  
cc: AJ Duffy